

***Village of Barrington  
Zoning Board of Appeals  
Minutes Summary***

Date: March 4, 2003

Time: 7:00 p.m.

Location: Village Board Room  
200 South Hough Street  
Barrington, Illinois

In Attendance: Patricia Pokorski, Chair, Zoning Board of Appeals  
Ralph Bartlett, ZBA  
Robert Henehan, ZBA  
Ryan Julian, ZBA  
Victoria Perille, ZBA  
Bruce Kramer, ZBA  
Peg Moston, ZBA

Staff Members: Keith Sbiral, Senior Planner  
Jeff O'Brien, Planner/Zoning Coordinator  
Sally Lubeno, Recording Secretary

***Call to Order***

Chair Patricia Pokorski called the meeting to order at 7 p.m. Roll Call noted the following: Patricia Pokorski, Chair, Present; Ralph Bartlett, Present; Robert Henehan, present; Ryan Julian present; Bruce Kramer, absent; Victoria Perille, present; and Peg Moston, present. There being a quorum established, the meeting proceeded.

Mr. Sbiral introduced Jeff O'Brien, a new planner for the village.

Ms. Pokorski noted that there were two matters before the Board this evening.

*Mr. Kramer arrived*

Ms. Pokorski swore in anyone who would be testifying. Ms. Pokorski then explained the process for the appeal.

**Public Hearings.**

**ZBA 03-01 Harff Residence—Variation (428 North Avenue)**

John Harff of 428 North Avenue in Barrington. Mr. Harff went over the plans for a proposed addition to his home. Mr. Harff had read the staff report.

Ms. Pokorski asked the petitioner for a general overview.

The petitioner is seeking a height variance, and stated it was hardship to maintain architectural integrity of building that was built in 1902. The petitioner has completed many internal improvements. Mr. Harff showed several pictures and indicated that very little would change from the front except for a small bump-out of about 4 feet. The addition did extend one foot into daylight plane. Mr. Harff mentioned that he was fortunate to have a lot that was 330 foot deep. Mr. Harff showed a display of the footprint and stated that he would like to maintain roofline. Mr. Harff also showed a couple other properties that had additions similar to the one that he proposed. Mr. Harff stated he had read the staff report. With the exception of the daylight plane, Mr. Harff agreed with the staff recommendations. Mr. Harff thanked the board for their attention to his proposal.

**Public Comment:** There was no public comment.

### ***Staff Report***

Mr. O'Brien went over the Staff Report. The owner was proposing an addition to south and west. The height of existing property measured at midpoint was 29 feet, and he referenced the zoning ordinance that states heights in R-6, single family district, to be no higher than 25 feet and stated the petitioner was requesting a 4-foot variation. In addition, the petitioner was requesting a variation in the daylight plane for 1 foot for 53 feet, maximum allowed was a 2 foot encroachment for a span of 20 feet. The petitioner was requesting a 33-foot span variation. For background information, the home was a four-square structure with an existing 29-foot height. The proposed addition would be to the rear except for side bump out to the south side of the structure. Mr. O'Brien noted that the Zoning Board of Appeals had approved similar requests, and it would match the existing structure. The variation would also reduce the daylight plane. The ordinance ensures that surrounding properties can get sufficient daylight. The proposed construction did create a daylight issue for property next door.

Mr. O'Brien then addressed the 8 variation standards.

Mr. O'Brien presented the staff recommendation:

**Recommendation:** Staff believes the requested height variation substantially complies with the eight (8) standards specified in section 3.16.F of the Zoning Ordinance. Staff believes the Zoning Board of Appeals should recommend approval of the height variation to the Board of Trustees.

Though staff believes that providing livability standards for existing structures is crucial to maintaining the housing stock in Barrington, staff does not believe property owners have a right to construct additions and modifications where zoning restrictions do not allow construction and a hardship or unique physical condition do not exist. Staff believes daylight plane encroachments significantly impact surrounding properties. Staff believes the Zoning Board of Appeals should recommend denial of the variation request for a further daylight plane encroachment to the Board of Trustees.

Mr. Steve Peterson, an architect for the project said that the mass of the building was put on one side, it would shift the roofline and would give it a double peak look. Mr. Peterson illustrated how it would look with the changes too close together and that would not be typical of how the house would have been built in the early 1900's.

Ms. Perille asked whether the present roofline was already encroaching into the daylight plane.

Mr. Julian said it was allowed to encroach for 20 feet.

Mr. Perille asked whether it already encroached.

Mr. Henahan clarified that the existing structure could have additional encroachment foot up to 2 foot, but still for only 20 feet.

Ms. Pokorski asked what would be more desirable from an architectural standpoint.

Ms. Pokorski asked for clarification of the daylight plane issue. Ms. Pokorski said she thought this was the first time this standard had been addressed in quite some time. Ms. Pokorski asked about livability of structures.

Mr. Sbiral asked if he should go over the daylight plane.

Mr. Sbiral went over the daylight plane as it was measured from interior side lot lines at property line 14 feet up in the air at a 45 degree angle. As shown in the illustration, this eave encroached by the amount of the red colored in space for the full length of the house. The ordinance allowed up to a 2-foot encroachment only for a 20-foot span, such as for a gable or dormer, which would make them exempt from the daylight plane. Except for the livability standards a phrase they use to make old structures more able to be lived in by modern-day standards; with bigger cars in garages, and the ability to put on an addition, staff felt that by pulling the addition in about one foot would alleviate that 33-foot span.

Mr. Henehan asked if this was a problem on the north and south sides.

Mr. Sibrall said the encroachment was just on north side.

Mr. Julian asked whether it was a double lot and how wide the lot was.

The petitioner said the lot was 64 feet wide, but it was double deep.

Mr. Henehan said the Zoning Board of Appeals did not normally get daylight plane issues because it would take a tall building and a narrow lot for it to occur.

Mr. Sibrall said it was also pretty rare in building permits applications because if petitioners were building a structure, they could move it over a foot. In addition, if petitioners were not building off an existing structure, modifications could be made. When the Zoning Ordinance was being written, the regulations were stricter, and it was found that many existing structures did not comply, so the regulations had been loosened up a bit and most structures now did comply. Problems were with existing structures and in this case, an uncharacteristically tall house.

Mr. Henehan said if the petitioner wanted to comply, they could move the north side in a foot, but then the house would look awkward.

Mr. Sibrall clarified that in the staff report it was not the intent to mix historic district terms with houses in non-historic district. The Architectural Review Commission has noted several times that the differentiation between old and new portions was important. The petitioner mentioned he wanted to maintain architectural integrity and not differentiate between the two parts.

Mr. Peterson demonstrated what would happen when addition would be moved in that direction. The more mass that was put on one side would shift and would make it have a double peak look and very undesirable. It did not look like something they did back then. The petitioners wanted to keep it in line. Mr. Peterson agreed with Mr. Sibrall they could move it a foot but they would choose not to do that; they would probably put it in back.

Ms. Moston said the original roofline was already encroaching. Ms. Moston said she thought it was already over the 20-foot.

Mr. Julian said he thought it was okay.

Mr. Henehan clarified that the existing house could have another foot of encroachment.

Ms. Perille asked from an architectural encroachment standpoint, which one would be more desirable.

Mr. Julian said it came to his mind because of the shade of his house that keeps the front of his driveway in permanent shade in the winter. If the daylight was blocked, it could create a hardship to the neighbor because of the north side. Some might like to have sun on the driveway and/or be able grow plants. It was not really the 20 or 30 feet, it was the advantage of sun.

Mr. Harff, the petitioner, showed an actual picture, which showed the neighbor's house and the driveway. Examples of neighbors' houses were shown and they were a four-square style that started 3 feet above grade and were very similar. In the picture, a shadow did hit the neighbor's house as shown in the picture. He presented a petition from the neighbor that supported the petitioner and stated they were in favor of it.

Ms. Pokorski asked if there was any provision in the Zoning Ordinance to give weight to a neighbor's opinion.

Mr. Sibrall said that public comment was not addressed in the eight standards. It was more of an indirect influence opinion on the board and its members.

Mr. Sbiral said he thought the reason was that giving neighbors the right to veto was dangerous, or having one neighbor say it was okay might want the same thing.

Mr. Julian said he thought the height was all right to keep the existing roofline, but the width was troublesome and it was not that difficult to move it to the side or to the back. There were two other sides that could be used to avoid the daylight plane.

Ms. Moston asked Mr. Peterson, as the architect, why the petitioner could not go further to the south. Ms. Moston stated she understood the dual point on the roofline.

Mr. Peterson said the reason was that it gave better proportion to the rooms such as bathrooms and master bedrooms and they were trying to maintain better proportions, rather than have very narrow rooms. The petitioners were trying to avoid awkward proportions. It was not an architectural issue; it was a design issue.

Ms. Moston clarified that they were going no further into daylight plane, only extending length of the existing house.

Mr. Peterson said if the petitioners did not get the daylight plane variation, they would put it back a foot for length. The petitioner would not go to the south, because it would not look right. It might mean adding a foot onto the back. The petitioner would not go to the south because of the roofline would not be architecturally appropriate.

Mr. Julian said it would not make sense to expand to the south, the petitioner could expand to the west without a variance. Although it changed the rooms a little in proportion, it did not appear to be that dramatic.

Mr. Peterson commented on historic architecture and additions to historic homes. The petitioner's home is a four-square, and the proper way to add on is to maintain that shape, or by adding a bay or gable, stepping the addition in was his choice as an architect. This was the petitioners' preference. Mr. Peterson could work with it either way.

Mr. Kramer asked about the height of existing residence and how it was measured.

Mr. Peterson said height was measured to the mid-point of the roof. It would be a little lower if they did not get the daylight plane.

Mr. Kramer said that the drawing was a little different than the photograph.

Mr. Peterson said that the photograph is misleading because of perspective. That is why elevations are so difficult to understand.

#### **MOTION 1**

Mr. Julian moved that the Zoning Board of Appeals recommend to the Board of Trustees that the height variance be approved. Mr. Bartlett seconded. Roll Call noted the following: Patricia Pokorski, yes; Ralph Bartlett, yes; Robert Henehan, yes; Ryan Julian, yes; Bruce Kramer, yes; Victoria Perille, yes; and Peg Moston, yes. Motion carried.

Mr. Henehan said he thought the daylight plane was a minor variation.

Ms. Pokorski agreed.

#### **MOTION 2**

Mr. Henehan moved that the Zoning Board of Appeals recommend approval to the Board of Trustees of the daylight plane as proposed. Mr. Bartlett seconded. Roll Call noted the following: Patricia Pokorski, yes; Ralph Bartlett, yes; Robert Henehan, yes; Ryan Julian, no; Bruce Kramer, yes; Victoria Perille, no; and Peg Moston, yes. Motion carried 5-2.

Mr. Sbiral stated that these petitions would go to the Board of Trustees the first meeting in April.

### **ZBA 03-02 Gourdie Residence-(625 Division Street)**

The petitioner was seeking a variation to minimum of front and side yard setback.

Bryant Gourdie of 625 Division proposed a 2<sup>nd</sup> story that would be built on the frame of his existing ranch home. The existing south setback was 6 feet, which was 12 inches short of what was needed. The existing front setback was 23.8 feet, which was 9 inches short of the required 24.6 feet. These existing setbacks would remain the same after the remodel/addition was completed. Mr. Gourdie stated he had met with Mr. Craig Failor before he began planning this addition, and Mr. Failor assured him that as long as he stayed within the existing footprint, the addition should not be a problem. Now that Mr. Gourdie was done and he submitted the plans for approval for those setbacks, he found out he needed a variance to continue.

Mr. Gourdie said that he had received one recommendation from the staff to pull the top floor back one foot. Mr. Gourdie showed that the front setback was consistent with surrounding properties. Mr. Gourdie would have to bring one side back 12 inches if he did not get the variance. The area above and the front were also in question. It showed that the front part was in line with every other house on the street. Mr. Gourdie had pictures of the streetscape.

Mr. Gourdie noted that there was a house at 629 Division Street, also building an addition, which had been approved, and they did not need a variance. Mr. Gourdie was doing exactly the same thing, and he had to go through this process. The other house was already under construction.

Ms. Pokorski assured the petitioner that it was not an arbitrary procedure because what they were doing did not require a variance and what he was proposing did.

Mr. Sbiral noted it might have been arbitrary, and there were several things peculiar with this case.

Mr. Sbiral said the house to the south had received an approved building permit although it encroached into setback by 8 inches. The permit had been approved by the director of the Building and Planning Department, Mr. Jim Wallace. It was a mistake. Mr. Sbiral noted that there were some changes made to the plans early. There were also some daylight plane issues, and the original plan did not indicate what was new in the front of the house. It was overlooked when the permit was issued. Since the neighbor had a permit the Village could not force him to come back through the process to get it without causing huge problems. It was against the law to do it. Unfortunately, this petitioner was going through the proper channels that the neighbor did not have to go through.

Mr. Sbiral noted that Mr. Gourdie did meet with Mr. Failor early and there might be a few petitions still out there in a gray area. Since October, when the Building and Planning Department met with Village Attorney and together went over the 8 variation standards, the department is now interpreting them a little differently. It was probably quite different than what Mr. Gourdie heard from Mr. Failor when these strict standards were enforced. The planners were now encouraging the petitioners to modify plans to avoid variations unless there was a unique physical condition of the land; and, therefore, a hardship because of the land.

Mr. Gourdie said that he would have been happy to do that, but now he was done with the architectural planning and because they would have to now move a bathroom and other structural features which would change the roofline. Mr. Gourdie said they would be taking 10 feet off. The petitioners were pulling a garage down and putting a garage in the back. There was a 5.5 feet reduction in the encroachment. Mr. Gourdie stated that both houses on either side of his already had put on second story additions.

Ms. Pokorski said it was hard not to put on an attorney's hat and asked whether the Village had some obligation regarding these circumstances in that it might be an arbitrary and capricious process that one neighbor received one set of criteria and Mr. Gourdie received another set of criteria. This did not mean that the ZBA would necessarily approve everything Mr. Gourdie was planning to do, but perhaps the ZBA needed to work a little harder to accommodate his needs.

Mr. Sbiral stated that on the issue on this property as noted in the staff report was a recommendation to deny the petition; however, there had been significant events that had developed throughout the day that there were new, unique conditions to this property. Without a doubt, they offer the staff report as a starting point for the Zoning

Board of Appeals consideration with the belief that things could be changed. Mr. Sbiral thought of one house in particular where it was pulled in on the side to avoid the variation process.

Mr. Sbiral said the petitioner did receive mixed signals from staff due to changes, and there were mistakes on the other permit granted, and there were existing encroachment on both sides of the existing house, and the petitioner was reducing the encroachment on the north side, which the staff looked at favorably.

Mr. Sbiral stated all this but did not amend the staff report as it was the staff's recommendation, not his alone.

Mr. Julian commented that even if staff made a mistake on the building permit, the ZBA did not need to perpetuate the errors. The Zoning Board of Appeals needed to look at each case on its merit. Just because mistake gets through, the Board should not abandon the process.

Ms. Pokorski disagreed and said that there should be some equitable and uniform treatment by the Village; and here was an example where a neighbor got a permit by mistake and this petition did not, and that was not fair.

Mr. Kramer asked what about the next time.

Ms. Pokorski said she did not mean to perpetuate the problem. Ms Pokorski said that because Village staff gave positive feedback and then, at the 11<sup>th</sup> hour pulled the rug out, it was not fair, not reasonable, and not equitable.

Mr. Gourdie said the issue with the neighboring property was new today. Mr. Gourdie said that at the meeting in August, before they began planning, they were told that as long as the addition was on existing footprint that it should not be a problem. Now it was a problem and that was disconcerting.

Ms. Moston said this kept coming up. She asked Mr. Sbiral that if a resident spoke to someone who no longer works for the village and now paid someone to draw up plans based on what the village said, and then the ZBA denied the request, would the petitioner have to pay an architect again.

The petitioner replied yes, to the tune of a few thousand dollars.

Ms. Moston then asked Ms. Pokorski and Mr. Sibiral for ideas on what the board was supposed to do.

Mr. Julian suggested that the ZBA make their decision in the usual manner.

Ms. Pokorski said she felt that the eight standards were easily manipulated by staff.

Mr. Julian said he did not think that was fair. Mr. Julian said that staff gave opinion on the facts as they saw them. The Zoning Board of Appeals may see them differently. It was the Zoning Board of Appeals responsibility to review them. The Village paid staff to provide us with their opinion. The board could overrule the staff just as they did in the last case.

Mr. Sbiral clarified the following points:

1. In most cases, the architectural plans are already done by the time the building permits were issued, and in almost 99% of cases, the architect had the ordinance down and there are no errors.
2. Regarding concern as to what staff told people, Mr. Sbiral admitted that with Mr. Palmer and with this case, there were significant errors made, some were his and some were others. However, in all cases since mid November Mr. Sbiral made sure than anyone applying for a commission case knew what the perspective of staff was and that it was very conservative and petitioners should probably know to look at everything with a careful eye.

Ms. Pokorski said she was not trying to point fingers or accuse anyone of bad faith but standards were vague and an argument could be made either way.

Mr. Sbiral said there was quite a bit of differentiation in the last six months as to how the standards were being interpreted.

Ms. Pokorski said it seemed there were 180 degrees of difference in how the Zoning Ordinance was interpreted.

Ms. Perille said she thought the Zoning Board of Appeals had seen quite a few cases regarding additions of second stories and quite a few were in the Historic District, which was a different factor. Some of the cases had other unique conditions, such as the lot was narrower than might be required. If the staff tells the petitioner to move the second story in, structurally, it requires a different way of approaching the plan. The Zoning Board of Appeals has discussed that in the past and what it would do to the structure and its appearance. There was a case with one house, designed to come out farther and the petitioner pulled it back off a porch. The Zoning Board of Appeals suggested that that petitioner put it back to a bearing wall of the house.

Mr. Sbiral said the Zoning Board had approved two similar variations similar to this. The ruling on the house on North Cook was that there would be additional living space added. But if it went straight up, it was okay. Mr. Sbiral thought that, as the Zoning Board of Appeals made rulings, there would be another thing that staff would use as a cue when they wrote their report.

Ms. Perille asked Mr. Sbiral what the Village hoped to gain by suggesting the second floor be moved in a foot. The footprint was going to be smaller than before.

Mr. Henehan said the problem with the proposal was that the footprint would actually be smaller because they were taking something off the side, and if it were just possible to move the house foundation one foot, it would comply. Mr. Henehan did not see the encroachment as being that significant.

Ms. Perille asked if there was any daylight plane encroachments involved.

Ms. Pokorski said there were none.

Mr. Kramer said in some cases the architect and owner were trying to fit the plans into something that the ordinance allowed, like the architectural rendering. The Zoning Board of Appeals had to be careful of a situation where someone might be trying to take advantage of it and was encroaching more.

Ms. Pokorski agreed with Mr. Henehan that this was not as significant to be worrisome or bothersome.

Mr. Henehan said there was one case when it was more significant; they were making a two-car garage out of one.

### **Staff Report**

Mr. Sbiral said he had already covered most of the points. Mr. Sbiral stated that part of staff's responsibility was to avoid teardowns of small buildings and to build larger ones. **Recommendation:** Staff recommended denial.

**MOTION:** Ms. Moston moved that the Zoning Board of Appeals recommend approval of variation within the existing footprint of the house. Mr. Bartlett seconded. Roll call noted the following: Patricia Pokorski, yes; Ralph Bartlett, yes; Robert Henehan, yes; Ryan Julian yes; Bruce Kramer, yes; Victoria Perille, yes; and Peg Moston, yes. Motion carried.

Mr. Sbiral stated this petition would go to Board of Trustees the first meeting in April.

**APPROVAL OF MINUTES--** Mr. Julian noted several errors in the January minutes so the minutes were held for approval until corrected. If anyone had comments, please submit them to Mr. Sbiral.

### **PLANNER'S REPORT**

Mr. Sbiral stated that one case was pending, which was the sign variation.

***ADJOURNMENT***

**MOTION:** Mr. Henehan moved to adjourn; Ms. Perille seconded. All ayes. Meeting adjourned at 9:30 p.m.

Respectfully submitted,  
Sally Lubeno, Recording Secretary

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Patricia Pokorski, Chairperson  
Zoning Board of Appeals